

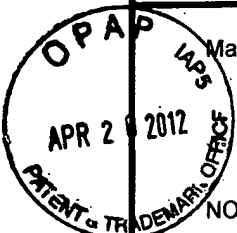


PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))Docket Number (Optional)
13338Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 6,276,974Application Number: 09/372,401Issue Date: 21 AUGUST 2001

Filing Date: _____

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. _____ original application number _____ original filing date _____
original application number _____ 01 FC:1599
original filing date _____☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ filed on _____**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

17 APRIL 2012

Date

Signature

CONNIE L. SUMMERS

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ 1,425.00	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 1,425.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700.00

5. MANNER OF PAYMENT

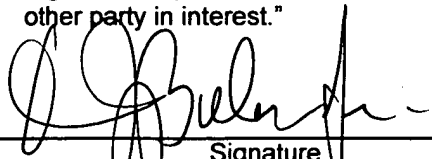
- ☐ Enclosed is a check for the sum of \$ _____
- ☐ Please charge Deposit Account No. _____ the sum of \$ _____
- ☒ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 50-3935

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature

THEODORE J. BIELEN, JR

Type or printed name

17 APRIL 2012

Date

27,420

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

SEE ATTACHED SHEETS

(Please attach additional sheets if additional space is needed)

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

7. OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No. 50-3935

OR

☐ Send refund check

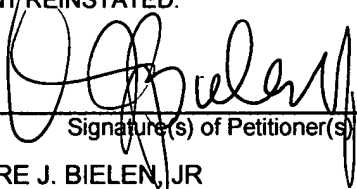
WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

17 APRIL 2012

Date

THEODORE J. BIELEN, JR

Typed or printed name(s)

27,420

Registration Number, if applicable

1390 WILLOW PASS ROAD SUITE 1020

Address

(925) 288-9720

Telephone Number

CONCORD, CA 94520

Address

ENCLOSURES:

- ☒ Maintenance Fee Payment
☒ Statement why maintenance fee was not paid timely
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
☒ Other:

DECLARATIONS OF KEITH JACKSON AND THEODORE J. BIELEN, JR



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Customer No.: 28061

JACKSON, KEITH

Patent No: 6,276,974

Atty. Dkt.: 13338

Issued: 21 August 2001

For: **SWITCH SYSTEM FOR PREVENTING MARINE
PROPELLER INJURIES**

**MAIL STOP PETITION
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail postage prepaid in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on 4/17/2012 By: [Signature]

**STATEMENT ATTACHED SHEETS PAGE 4 OF 4 OF PETITION TO ACCEPT
UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED
PATENT**

Petitioner, through his attorneys, avers that the non-payment of the second maintenance fee in the above identified patent was unavoidable. Reasonable care was taken to pay maintenance fee through the management of the prior owner, Propguard, Inc., of the subject patent. However, following the unexpected death of person charged with paying maintenance fee the collapse of the company, Propguard Inc., collapsed. Propguard Inc manufactured and sold products under the above identified patent under a license from the owners of the subject patent. A current owner of the above identified patent, Keith Jackson, became aware of the expiration of such patent in late February 2012 and promptly contacted the attorney who prosecuted the patent application upon which the patent was issued and who paid the

first maintenance fee. The present petition is being promptly filed to pay the maintenance fee.

The declarations of Keith Jackson and Theodore J. Bielen, Jr, attached to this petition, explain the notification given to Propguard Inc., dba Maritech Industries, concerning the payment of the second maintenance fee and the circumstances which prevented payment of the same due to the death of the person in charge of paying the maintenance fee, and the subsequent collapse of Propguard, Inc., that manufactured and sold products under the above identified patent.

It is believed that this statement and the attached declarations provide a showing that the delay in paying the maintenance fee for the above identified patent was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and this petition is being promptly filed following an owner of the subject patent becoming aware of the expiration of the patent due to non-payment of the maintenance fee.

Respectfully submitted,


THEODORE J. BIELEN, JR.
Registration No: 27,420

TJB:cls
Date: 17 April 2012
BIELEN, LAMPE & THOEMING
1390 Willow Pass Road
Suite 1020
Concord, CA 94520
Tel: (925) 288-9720
Fax: (925) 288-9731



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Customer No.: 28061

JACKSON, KEITH

Issued 1 August 2006

For: **MARINE ENGINE STOPPING DEVICE**
US PATENT 6,276,974

Attorney Reference 13338

COMMISSIONER FOR PATENTS

P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail postage prepaid in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on 4/17/2012. By: Carman Sumner

DECLARATION OF KEITH JACKSON
(37 C.F.R. §1.132)

I, Keith Jackson, declare that I am one of the owners of United States Patent 6,276,974.

I further declare that I was also one of the founders of Proguard Inc., a Corporation concerned with developing devices in the Marine industries. Proguard Inc., was the original owner, by assignment, of United States Patent 6,276,974, the application of which was prosecuted by Theodore J. Bielen, Jr, a Patent attorney.

Following the establishment of Proguard Inc., Robert Morgan purchased the entire ownership of Proguard Inc., on or about January 2008 and did business under Maritech Industries. I retained my position as an employee of Propguard Inc., following Robert Morgan's purchase. Robert Morgan was in charge of the legal and financial affairs of Proguard Inc., following his purchase. Unfortunately, Robert Morgan died on August 8th 2008 in Redding California, while undergoing a surgical procedure. Robert

Morgan never informed me, or any of the other employees of Proguard Inc., of the payment of a maintenance fee which would be due on United States Patent 6,276,974.

The ownership of United States Patent 6,276,974, was assigned to me and Harry Bouge, one of the inventors, following Robert Morgan's death. Propguard continued to manufacture and sell products under United States Patent 6,276,974 through a license from the new assignees. I continued to work as an employee of Propguard Inc., until January of 2009.

Following Mr. Morgan's death, Proguard Inc., was disbanded by the Executors of Mr. Robert Morgan's estate. The stoppage of the Proguard Inc., business took place on or about January of 2009. The Executors of Mr. Robert Morgan's estate never informed me or any of the employees of Propguard Inc., of the payment of a maintenance fee due on United States Patent 6,276,974.

At the end of February 2012, it came to my attention, via viewing the United States Patent and Trademark Office Web page, that the second maintenance fee had been due and had not been paid on United States Patent 6,276,974. I immediately contacted Mr. Theodore J. Bielen, Jr to see if the maintenance fee could still be paid. He confirmed to me that the patent had expired for nonpayment of the maintenance fee and that a petition could be filed stating that the nonpayment of the maintenance fee was unavoidable due to the miscommunication between his office and Mr. Robert Morgan and Propguard Inc. I authorized Mr. Bielen to

such a petition on my behalf.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 4/5/12



KEITH JACKSON



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Customer No.: 28061

BIELEN, JR THEODORE J

Issued 1 August 2006

For: **MARINE ENGINE STOPPING DEVICE**
US PATENT 6,276,974

Attorney Reference 13338

COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail postage prepaid in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on 4/17/2012. By: Carmine D. Summe

DECLARATION OF THEODORE J. BIELEN, JR.
(37 C.F.R. §1.132)

I, Theodore J. Bielen, JR, declare that I am an attorney registered to practice in the United States Patent and Trademark Office.

I, further declare that I represented Propguard Inc., the original assignee of United States Patent 6,276,974, and prosecuted the application upon which United States Patent 6,276,974 was issued. I also paid the first maintenance fee on behalf of Propguard, Inc., for United States Patent 6,276,974.

On 28 July 2009, I informed Propguard Inc., who was doing business as Maritech Industries, of the obligation to pay the second maintenance fee, in the United States Patent & Trademark Office, on United States Patent 6,276,974 A copy of this letter to Propguard Inc., is attached as Exhibit A.

Having receiving no response to my letter of 28 July

2009 the Maintenance fee on United States Patent 6,276,974 was not paid through my office.

I again notified Propguard Inc., that the maintenance fee had not been paid and that the second maintenance fee still could be paid with a surcharge as late as 21 August 2010. A copy of this letter is attached as Exhibit B. Again, I received no response from Propguard Inc., concerning the payment of the second maintenance fee for United States Patent 6,276,974 and, thus, took no action on their behalf in this regard.

I was unaware of the dissolution of Propguard Inc., until early March 2012, when I was contacted by Keith Jackson to ascertain the maintenance fee status of United States Patent 6,276,974.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date:

17 April 2012


THEODORE J. BIELEN, JR